

**PUBLIC DEFENDER COMMISSION MINUTES  
DECEMBER 9, 2005  
CONFERENCE ROOM  
OFFICE OF THE STATE PUBLIC DEFENDER  
BUTTE, MONTANA**

**Call to Order:**

The Public Defender Commission meeting was called to order at 8:40 a.m. by Chairman Jim Taylor.

**Members Present:**

Betty Bischel, Edgar; Daniel Donovan, Great Falls; Mike Sherwood, Missoula; Stephen Nardi, Kalispell; James Park Taylor, Pablo; Wendy Holton, Helena; Doug Kaercher, Havre; Caroline Fleming, Miles City; and Jennifer Hensley, Butte.

**Members Absent:**

Tara Veazey, Helena and Theda New Breast, Babb.

**Other Interested Parties:**

Don Judge, representing Teamsters Local 190; Scott Crichton representing the ACLU; Carl DeBelly representing the Billings Public Defender's Office; Brad Belke representing a private Butte based legal firm that provides public defender services for Butte-Silver Bow, Mariah Eastman, Gallatin County Chief Public Defender and Beth Brenneman, representing the Montana Advocacy Program.

**Correction of Minutes:**

Corrections of the minutes of the November 14, 2005 meeting are as follows:

1. On page three, "NLEDA" will be "NLADA".
2. The first line of the last paragraph on page five contains a grammatical error; the word "went" should be the word "gone".
3. On page eight, paragraph two, "Sorrell" should be "Soros".

### **Approval of Minutes:**

Stephen Nardi moved to accept the corrected minutes of the December 9, 2005 meeting. Caroline Fleming seconded the motion. The motion carried unanimously.

### **Chief Public Defender's Report:**

Chief Randi Hood welcomed the Commission to the new office and informed them that the rest of the furniture that had been ordered from Montana Correctional Enterprises (MCE) will be delivered in January and that the phones and computers were scheduled to be installed on Monday, December 12<sup>th</sup>. Chief Hood further advised that there would be a sign in front of the building designating it as the Montana State Public Defender Office.

Chief Hood introduced Harry Freebourn, Bonnie Anderson and Carleen Henderson to the Commission. She informed the Commission that Mr. Freebourn is an expert in finance and was hired for the position of Director of Administration. Bonnie Anderson is a paralegal currently employed by the Lewis and Clark County Public Defender's Office and will begin work in the Butte office in January where she will be Chief Hood's administrative assistant. Ms. Henderson recently graduated from Montana Tech with a degree in Business Information Technology and she will be Mr. Freebourn's administrative assistant.

An advertisement has been posted for the Information Technology Manager position.

Chief Hood handed out the Attorney General's Opinion No. 10 and a discussion ensued regarding its contents (refer to Exhibit 1).

### **Administrative Director's Report:**

Mr. Freebourn thanked Chief Hood and told the Commission that he was excited for this opportunity to help build a brand new stand alone agency. Mr. Freebourn handed out Exhibit 2 to the Commission and informed them that he will be working on the accounting and budget structure to be implemented by July 1st, determine the costs for the entire system, and look at the long term information that will need to be captured. Mr. Freebourn welcomed feedback from the Commission as to what information they want captured.

Mr. Freebourn also stated that he will be working on a coding system for caseload, case type, and jurisdiction so that the information can be tracked by each category.

Mr. Freebourn said that the Information Technology Manager will need to provide a desktop environment so that every employee in any public defender office can perform activities 24/7. We will need to be able to connect into SABHRS to do accounting and also MBARS to prepare budgets. The Information Technology Manager will also need to develop, install and manage a case management system.

Mr. Freebourn will also take the current budget as provided by the legislature and produce a much more detailed operating plan.

Mr. Freebourn will assist the Commission as its members develop the Public Defender strategic plan and approve an operating budget. He will also provide support to the Commission as it prepares to determine indigent eligibility for financial assistance.

### **General Discussion:**

Chief Hood advised the Commission that Mr. Freebourn has requested they appoint a Budget Committee.

Mr. Donovan added that he would like to see an organizational chart that identifies what positions are to be hired.

The group discussed a proposed case management software system by the name of JustWare and how it to interface this software with other state systems. They also discussed the possibility of having a representative from JustWare come to the January or February meeting to demonstrate the software.

Chief Hood informed the Commission that she has been talking to law clerks about the attorney positions that will be available. Also, that the Department of Administration is drawing up job announcements for her review and approval. Job advertisements will be placed statewide in local newspapers for a period of two weeks but will remain longer in the Montana Lawyer. Wendy Holton will work on an article for the January issue of Montana Lawyer and Chief Hood will put the article in a newsletter that will go out to the Judges.

Chief Hood informed the Commission of the NLADA meeting that she attended in Florida. She said there were helpful sessions on the topic of indigence as well as good material on representing the mentally ill and disabled. Chief Hood plans to travel to Wyoming and Denver about the first of February to see how their public defender system operates.

The group discussed the need for training on dependent and neglect cases. Chief Hood spoke with Sherry Meador about providing a handbook to the public defenders that explained how to handle these types of cases. Jim Taylor also thought it would be a good idea to make the training mandatory and also incorporate ICWA training.

Mr. Taylor noted that the ADA conference is February 10<sup>th</sup> in Chicago and he thinks it would be a good idea for Chief Hood to attend.

The Commission discussed concerns over the ability to design and implement this system within seven months. Chief Hood agreed and advised that we need to prioritize and address the critical areas first. Mr. Taylor would like to propose that a written progress report addressing those concerns be prepared by Chief Hood.

### **Public Comment:**

Don Judge of Teamsters Local 190 provided the Commission with a copy of the Collective Bargaining Agreement between Missoula County and Teamsters Local No. 2 Public Defenders Unit for July 1, 2005 to June 30, 2006 (refer to Exhibit 3) and a copy of a letter dated December 1, 2005 addressed to Senator Mike Cooney from Gregory J. Petesch, Director of Legal Services, Montana Legislative Services Division (refer to Exhibit 6). Mr. Judge pointed out the monetary issues on page 11 of the agreement and said that there is conflicting language between the contract and Senate Bill 146, Section 69. Mr. Judge asked the Commission not to look at the wages of attorneys represented by the Teamsters for hiring or firing. He asked the Commission to think carefully about these issues.

Beth Brenneman of the Montana Advocacy Program said that her organization offers to provide training for attorneys in dealing with people with disabilities. She will also look into the handicap accessibility of the building here

in Butte. Ms. Brenneman also talked about involuntary commitments and how the cases will be tracked.

Ms. Brenneman informed the Commission that she has received many complaints and compliments about public defenders around the state and for privacy purposes asked how she should provide the information to Chief Hood. She stated there are many concerns about defendants not having access to public defenders by phone and not being able to get in touch with them.

Carl DeBelly, Chief Public Defender in Yellowstone County, told the Commission that JustWare works well.

Mr. DeBelly also told the Commission that there is a lot of concern about the Attorney General's Opinion. He strongly urged the Commission to decide quickly how the public defenders are going to be treated so that good public defenders are not lost to private practice. Jim Taylor informed Mr. DeBelly that they sought the Attorney General's opinion because not every office is working well and that it has never been the Commission's intention to destroy systems that are working.

Mariah Eastman, Chief Public Defender in Gallatin County, asked the Commission to remain flexible when working with these systems and asked about the State subcontracting with the county to keep systems that are working.

Brad Belke, an attorney representing a private legal firm in Butte that provides public defender services to Butte-Silver Bow, expressed concerns about keeping the longevity of his staff; there are four public defenders in Butte with over 25 years of experience.

10:45 -11:30 Committee Meetings were held.

12:00 Back in Session

The Districting Committee presented a preliminary plan to the group that provided an outline of the public defender regions and each region's main office within the state. Steve Nardi suggested leaving the main office location for region 10 unnamed and give Chief Hood the authority to decide where it would be. Mr. Nardi said that the Districting Committee recommends the following main offices: Kalispell, Helena, Butte, Great Falls, Havre, Bozeman, Billings, Lewistown, Missoula, and Miles City.

Commissioner Nardi made a motion to adopt the preliminary plan for the region layout. Commissioner Holton seconded the motion and it carried unanimously. The map will be posted on the website for at least 30 days to solicit public comment.

Jim Taylor discussed adopting a detailed conflicts policy and maintaining a database on how conflicts will be handled. Mr. Taylor also advised that a grievance procedure needs to be developed.

### **Rules Committee Report:**

The Rules Committee advised that it will take six months from start to finish to write and enact any administrative rules

### **Standards Report:**

Jim Taylor suggested that there be no February meeting and by January that working drafts of the standards be ready for the Commissions review.

Caseload/Workload Standards – national caseload standards designed for rural offices.

Mike Sherwood, Chief Hood and Jim Taylor will begin working on capital case standards.

Chief Hood has started working on the Juvenile Standards and Dependent/Neglect Standards and handed out drafts (refer to Exhibits 4 and 5).

Jim Taylor pointed out that standards need to be written for Guardianships, Conservatorships and the Uniform Parenting Act. Chief Hood will work on the standards for the Uniform Parenting Act. Steve Nardi, Tara Veazey and Betty Bichsel will work on the standards for Guardianships and Conservatorships.

### **Public Comments on Standards:**

Scott Crichton, ACLU, discussed the jail roster and jail standards. Mr. Crichton also stated his office continues to receive complaints from defendants about their

public defenders. He agrees that the standards are the most important thing for the Commission to do.

### **Old Business:**

Nothing discussed.

### **New Business:**

Draft standards report at the January meeting.

Jim Taylor made a motion that the Commission not have a meeting in February, Dan Donovan seconded and the motion carried unanimously.

Jim Taylor discussed the use of interns in all of the offices; Chief Hood agreed and stated she wants to use them as much as possible.

Mr. Taylor discussed inviting the Governor to the April meeting which will be held in Butte.

Mr. Taylor also discussed having a joint meeting at the end of June or the first of July with the Legislature's Interim Law and Justice Committee.

Sherry Heffelfinger will be contacted by staff to make arrangements with the Committee.

### **Appointment of Committees:**

Budget Committee: Doug Kaercher (Chairman), Steve Nardi, Jennifer Hensley, Chief Hood, and Harry Freebourn.

Legislative Committee: Dan Donovan, Jennifer Hensley, Mike Sherwood, Chief Hood, and Wendy Holton.

Here being no further business to come before the Commission, Jim Taylor moved to adjourn the meeting. Wendy Holton seconded the motion. The motion unanimously carried.

Meeting adjourned at 1:20 p.m.